

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**BEVERLY HILL and EDDIE RICKS,
as Co-Administrators of the Estate of
TIMOTHY JOHNSON, deceased,**

Plaintiffs,

v.

No. 13-0917-DRH

MARK E. LUSTER, et al.,

Defendants.

ORDER

HERNDON, Chief Judge:

Pending before the Court is plaintiffs' motion for default judgment (Doc. 33). Specifically, plaintiffs move for default judgment against Mark Luster for failure to plead or answer the second amended complaint. Based on the following, the Court denies without prejudice the motion.

Federal Rule of Civil Procedure 55 governs the entry of defaults and default judgments. *See Lowe v. McGraw-Hill Cos., Inc.*, 361 F.3d 335, 339 (7th Cir. 2004). Prior to obtaining a default judgment under Rule 55(b)(2), there must be an entry of default as provided by Rule 55(a). Here, plaintiffs did not move first for entry of default. Thus, the Court **DENIES at this time** plaintiffs' motion for default judgment (Doc. 33).

IT IS SO ORDERED.

Signed this 25th day of November, 2013.

Digitally signed by
David R. Herndon
Date: 2013.11.25
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**Chief Judge
United States District Court**